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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,188	01/17/2002	Larc E. Lindsey	LEL-1-CIP	3269
31671	7590	05/11/2004	EXAMINER	
STEVEN C. SCHNEDLER CARTER SCHNEDLER & MONTEITH, PA 56 CENTRAL AVE., SUITE 101 PO BOX 2985 ASHEVILLE, NC 28802			CORBIN, ARTHUR L	
			ART UNIT	PAPER NUMBER
			1761	
DATE MAILED: 05/11/2004				

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/052,188

Applicant(s)

LINDSEY

Examiner

ARTHUR L. GIBLIN

Group Art Unit

1761

—The MAILING DATE of this communication appears on the cover sheet beneath the correspondence address—

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, such period shall, by default, expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- ☐ Responsive to communication(s) filed on _____
- ☐ This action is **FINAL**.
- ☐ Since this application is in condition for allowance except for formal matters, **prosecution as to the merits is closed** in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- ☒ Claim(s) 1-18 is/are pending in the application.
- ☐ Of the above claim(s) _____ is/are withdrawn from consideration.
- ☐ Claim(s) _____ is/are allowed.
- ☒ Claim(s) 1-18 is/are rejected.
- ☐ Claim(s) _____ is/are objected to.
- ☐ Claim(s) _____ are subject to restriction or election requirement

Application Papers

- ☒ The ~~proposed~~ drawing ^s correction, filed on 7-02-02 ^{are} is ~~is~~ approved ☐ disapproved.
- ☐ The drawing(s) filed on _____ is/are objected to by the Examiner
- ☐ The specification is objected to by the Examiner.
- ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119 (a)-(d)

- ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119 (a)-(d).
- ☐ All ☐ Some* ☐ None of the:
 - ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____
 - ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a))

*Certified copies not received: _____

Attachment(s)

- ☐ Information Disclosure Statement(s), PTO-1449, Paper No(s). _____
- ☒ Notice of Reference(s) Cited, PTO-892
- ☐ Notice of Draftsperson's Patent Drawing Review, PTO-948
- ☐ Interview Summary, PTO-413
- ☐ Notice of Informal Patent Application, PTO-152
- ☐ Other _____

Office Action Summary

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1. The disclosure is objected to because of the following informalities: Applicant is requested to update the status of parent SN 09/306,259 on page 1 of the specification.

Appropriate correction is required.

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 1-18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 1-18 are indefinite since it is not understood what is intended by "in plan view" (claim 1, line 11 and claim 11, line 11). Correction is required without new matter.

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ray (pages 1, 2, 7-9) taken with or without Kjellman et al.

Ray discloses a stuffed potato in which a potato, having a cavity formed therein, is filled with a food substance, and the opening in the potato wall is closed with a plug made of potato cuttings. The cavity in the potato has a cross-sectional extent larger than the opening leading to the cavity.

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Without Kjellman et al, it would not have been obvious to trim the potato in Ray in the manner claimed by applicant (claims 1 and 11) since peeling a potato before further treatment is conventional and results in a standardized oval shape. With Kjellman et al, it would have been obvious to cut the potato in Ray into a ball before further treatment since such a cutting technique is conventional, as evidenced by Kjellman et al. Baking a potato (claims 8-11 and 16-18) is conventional.

6. Claims 1-18 are also rejected under 35 U.S.C. 103(a) as being unpatentable over Farha et al in view of the Japanese patent abstract taken with or without Kjellman et al.

Farha et al discloses a hollowed-out vegetable product including an opening and an interior cavity having a cross-sectional extent larger than the opening. The interior cavity is stuffed with another food. It would have been obvious to use a potato as the vegetable product in Farha et al and to close the opening therein with a potato plug since it is conventional to prepare a hollowed-out potato product including an opening which is filled with a potato plug, as evidence the Japanese abstract. Applicant is also referred to the last two sentences in paragraph No. 5 above.

7. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Chessman shows filling a core in a potato with a food substance.


8. Any inquiry concerning this communication the examiner should be directed to Arthur L. Corbin whose telephone number is (571) 272-1399. The examiner can generally be reached on Monday--Friday from 10:30 to 8 p.m.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Milton Cano can be reached on (571) 272-1399. The fax phone number for the organization where this application is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

A.L. Corbin/dh
May 5, 2004



ARTHUR L. CORBIN
PRIMARY EXAMINER
5-10-04